

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Michael Morse,
Petitioner-Appellant,

v.

Dickinson County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-30-0002
Parcel No. 03-29-477-010

On December 15, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Michael Morse, was self-represented and submitted evidence in support of his petition. The Dickinson County Board of Review designated Attorney Lonnie Saunders as its representative and participated by phone. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Michael Morse, owner of property located at 13888 240th Avenue, Orleans, Iowa, appeals from the Dickinson County Board of Review decision reassessing his property. The real estate was classified residential for the January 1, 2011, assessment and valued at \$712,800; representing \$625,600 in land value and \$87,200 in dwelling value.

Morse protested to the Board of Review on the grounds the property was not equitably assessed compared to other like properties under Iowa Code section 441.37(1)(a), that the property was assessed for more than authorized by law under section 441.37(1)(b), and that there is an error in the assessment under section 441.37(1)(d). The Board denied the protest.

Morse filed his appeal with this Board on the same grounds. This Board notes Morse's error claim is a market value claim of over-assessment. Therefore, we will consider claims of equity and market value. Morse claims \$642,400 to \$647,500 is the actual value and a fair assessment.

The subject property is a two-story¹ frame dwelling having 2748 total square feet of living area with multiple one-story frame additions and one-half finished basement. The property was built in 1915, has 40% depreciation, average quality grade (4+00), and is considered in normal condition. It is also improved with a 468 square-foot detached frame garage. The garage has an average quality grade (4+00), and is considered in above-normal condition. The site consists of 0.884 acres. The property is located on the southwest shore of Big Spirit Lake and has 110 feet of lakefront footage (133.10 effective front feet). The lot is 350 feet deep.

Morse also protested the 2009 assessment to the Board of Review. The property record card indicates the Board of Review lowered the total assessment for 2009 from \$731,600 to \$632,900. The notes on the property record card indicate the Board of Review lowered the assessment based on an "elderly hardship" for Morse's mother who lived on the property at the time. Both parties testified at hearing that the 2011 assessment increased from \$632,900 to \$712,800 after Morse's mother passed away and the "elderly hardship" adjustment was removed. It is Morse's opinion that if the Board of Review had no authority to make an "elderly hardship" adjustment in the first place, the increase in assessment for 2011 had to be based on an increase in the market value of the property. Morse asserts his mother's 2009 appeal was based on a market value claim, not a hardship claim, and the increase is not supported by the market. This Board knows of no authority for the Board of Review to grant "elderly hardship" adjustments, but the record indicates that was the reason for the reduction in value for 2009 and increase in value for 2011. Regardless, the question for PAAB is whether the 2011 assessment is more than authorized by law or is inequitable.

¹ Morse testified the dwelling is more accurately described as one and one-half story.

Morse submitted an analysis (Exhibit 3) for both the improvements and the land. Morse attempted to recreate the cost approach using the *Iowa Appraisal Manual* and concluded \$72,422 for improvement value. Morse priced the dwelling as a one and one-half story instead of a two-story dwelling. Additionally, Morse believes the dwelling should be a 4-5 grade, should be listed in below-normal condition, and should have 45% physical depreciation. Morse also stated the detached garage is more accurately described as a 5 grade, as opposed to a 4 grade, and is in below-normal condition as opposed to the above-normal condition shown on the property record card. Overall, Morse believes the improvements should be valued at \$72,422 instead of the \$87,200 calculated by the Board of Review. This Board recommends an exterior inspection of the dwelling and garage to determine whether the grade and condition listed by the property record card is accurate.

Morse's analysis concluded two different average land values per square foot. Morse concluded an average land value per square foot of \$14.81 by dividing neighboring properties' 2011 land assessments by their lot sizes. This information shows a disparity between Morse's assessment and the assessments of nearby properties, but this figure does not help determine the correct value of the property.

The analysis also included three sales comparables. Morse adjusted one property upward 20% for time because the property sold in October 2007. The other two properties sold in February and September 2010. The Board of Review asserts the sale in October 2007 was a sale "to/by an administrator, guardian, conservator, referee, trustee, etc.," and the sale in February 2010 was a 1031 exchange, making them abnormal transactions. The Board of Review apparently argues these sales would not be considered normal transactions for equalization purposes. All real estate transfers are considered normal unless there exists definite information showing otherwise. Iowa Admin. Code r. 701—71.10(3). There is nothing definite in the record to indicate that these sales are excludable for

consideration in a sales comparison approach. Based on these sales, Morse calculated an average land value per square foot of \$14.94.

Morse also submitted information on five property listings and nineteen properties that have sold. This information was prepared by Eric Hoien, of Hoien Realty, Spirit Lake, Iowa. Hoien has been a realtor for over twenty-seven years and held several officer-type positions in local real estate organizations. The five property listings are not persuasive as an indicator of market value, and the sales data is not enlightening on Morse's claim.

Morse also submitted a letter from Hoien. In a letter dated July 2011, Hoien determined the January 1, 2011, market value to be between \$615,000 and \$630,000. Hoien notes the subject site is one of the deeper lots on Big Spirit Lake. The letter also states the property has an extreme slope with approximately forty-one steps from the house to the lakeshore. Hoien believes this slope decreases the lot value by an estimated 15%, from \$625,600 to \$531,760. Hoien did not testify and there was no evidence submitted on how he arrived at his opinion of value.

Another issue raised with the subject property is a sewer line easement. According to Morse, the sewer line runs diagonally through the property approximately 190 feet from the street nearly bisecting the property from front to back. Morse believes the easement limits construction on the property. Morse states if he were to construct a new or larger garage, he could only build at the rear of the lot because of the twenty-foot wide easement running through the parcel that restricts where he can build.

Morse's underlying concern in this appeal is the method used by the Assessor and Board of Review to value the land. Dickinson County uses a front-foot pricing model to value most lakefront property in the jurisdiction. In Morse's opinion, using only the front-foot method over-values the subject property due to its 350 foot depth, the slope of the lot, and the sewer easement. Morse stated the depth chart and front-foot tables in the *Iowa Appraisal Manual* can skew the value of properties

like his. He stated the front-foot pricing tables are linear and the correct way to verify if the subject is fairly assessed is to compare the front-foot value to a square-foot value. He further stated that larger properties would generally be valued lower on a square-foot basis.

Dickinson County Assessor Stephanie Sohn testified for the Board of Review. Sohn stated she uses a uniform calculation starting with a base of \$5000 per effective front-foot. This base is adjusted by the depth of the parcel and a map factor. Sohn stated the front-foot method is used to value lakefront property because that is the most important consideration for a potential buyer. She did not believe it would be appropriate to use a valuation method combining the front-foot and square-foot methods. However, this Board notes the Dickinson County Board of Review has used both methods as reflected in prior PAAB rulings. While Sohn was not aware of any authority for the Board of Review to make an “elderly hardship” adjustment, she testified that was the reason for the decrease in 2009 and subsequent increase in 2011.

Sohn testified that when she revalued in 2011, sales information indicated the market for lakefront property had not declined (Sales Rates Study). However, we note this data is of the market as a whole, and not necessarily reflective of an individual property. Regarding the issue of the sewer line, Sohn testified generally that sales data has not indicated an adjustment needs to be made. She did state that the twenty-foot area cannot be built on. Sohn also testified there have not been many normal sales in the Big Spirit area, but she only identified two sales offered by Morse as abnormal. Sohn also stated that neighboring properties have a similar slope to the subject and that it was not her office’s practice of making a topography adjustment for slope of the land. She further opined that some buyers prefer the view from lots with a higher slope.

One of the main issues in this appeal is front-foot versus square-foot method of valuation. The subject property has 110 feet of frontage, or 133.10 effective front feet, that has a uniform base value of \$5000 per front foot. The Board of Review’s position is that a uniform method using effective front

foot best reflects how lake property sells. Although lake property may sell on a per front-foot basis, the manual does not require lake-front property to be valued on a front-foot basis. We also believe there may be a diminishing return on excess front footage and lot depth not accounted for when mass appraising under the *Iowa Manual*. Morse pointed this out in his testimony that the method used by the Board of Review is, in fact, linear. We agree with this statement. A lake lot with 100 feet of lakeshore will not likely sell for twice as much as a lot with 50 feet. Although this Board has accepted the effective front foot method in the past, this Board also accepted a square foot valuation, and has adjusted for excess footage. We believe Morse's square foot analysis in this factual situation more accurately reflects the value of his land.

After reviewing all the evidence, we find Morse has provided persuasive evidence in his claim that the property is over-assessed. Therefore, we determine the \$14.94 per square foot for the land and the improvement value of \$87,200 would determine a market value of \$662,390; represented \$575,190 in land using the average land comparables value and \$87,200 in improvement value. The letter by Hoiem is very limited, but is an indication as to the market conditions in the area and supports a lower assessment.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove equity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable...(2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). The evidence offered by Morse does not establish inequity in the assessment under the tests of *Eagle Foods* or *Maxwell*.

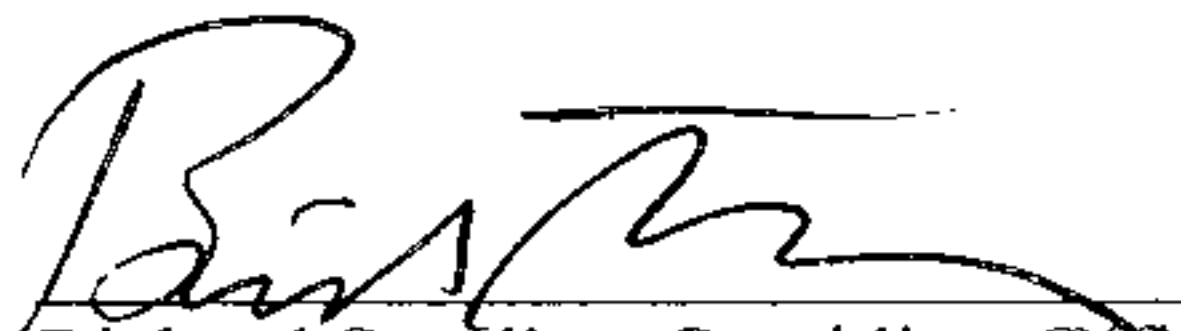
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the

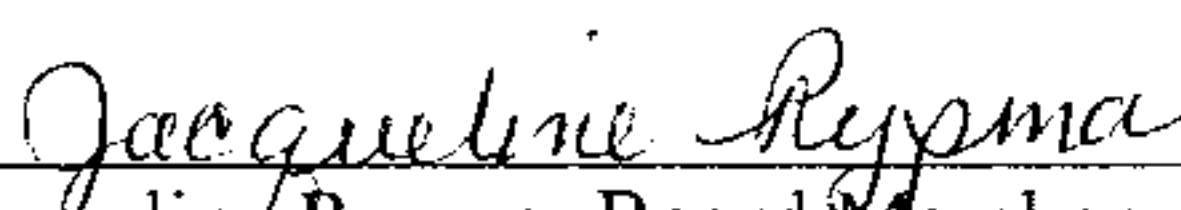
correct value of the property. *Bockeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). There is a statutory preference for establishing market values using sales of comparable properties. *Soifer v. Floyd County Board of Review*, 759 N.W.2d 775, 779 (Iowa 2009). Morse extracted a market value using data from the sale of three properties on the same street.

The evidence in the record does support the claims of over-assessment brought before this Board. We, therefore, modify the assessment of the subject property located at 13888 240th Avenue, Orleans, Iowa, as determined by the Dickinson County Board of Review as of January 1, 2011.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Dickinson County Board of Review is modified to \$662,390.

Dated this 7 day of May 2012.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5-7</u> , 2012.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
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